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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

Plaintiff

Civil Action No. _____

v.

CAPITAL ONE BANK

Defendants,

FREDERICK J. HANNA &
ASSOCIATES, P.C.

Defendants.

CIVIL COMPLAINT FOR
DAMAGES PURSUANT TO
15 U.S.C. §§ 1692 – 1692P,
15 U.S.C. § 1681 and The
United States Constitution

1 09-MI-0447

Comes now Kathryn A Cherry, plaintiff pro se do petition this Honorable Court
for relief for damages caused by the above named defendants Capital One Bank and
Frederick J Hanna & Associates, P.C. [Frederick J Hanna] and state the following:

THE PARTIES

Plaintiff is a resident of Cobb County, Georgia and have resided at the current
address for a number of years. Capital One Bank is a major national lending institution
operating in all 50 states of the United States of America and primarily in the business of
the issuance of personal credit cards. Frederick J Hanna & Associates, P.C. served as
counsel for Capital One Bank in 2006 for the purposes of initiating civil action against
both former and to-date credit card holders at the time. Frederick J Hanna & Associates,
P.C. are primarily based within the Metro Atlanta, Georgia area at 1655 Enterprise Way,
Marietta, Georgia 30067 according to their court filings.

JURISDICTION

1. Jurisdiction is pursuant to the Federal Rules of Civil Procedure whereas Capital One Bank extended their services to customers in the metro Atlanta, Georgia area regularly and given that Frederick J Hanna & Associates, P.C. operate from the Metro Atlanta, Georgia area according to their court filings. Jurisdiction is proper in the northern district of Georgia, Atlanta Division. The United States district court has jurisdiction over matters involving violations of the Fair Credit Reporting Act and the Fair Debt Collection Practices Act such as those complained of by this petitioner.

STATEMENT OF THE FACTS

2. Plaintiff and defendant Capital One Bank was in a contractual credit card agreement for a number of years. The terms and conditions of the contract allowed plaintiff to make regular monthly payments to defendants for monies and services extended by and through the use of a Capital One Bank credit card. In the process of doing business for a number of years, plaintiff made numerous attempts to negotiate certain terms and conditions of the contract as allowed and was eventually notified by defendants [Capital One Bank] that no further negotiations would be allowed and opted to terminate the card, terminate the contract and legally charge-off any outstanding debts owed by plaintiff as a loss. Defendants, Capital One Bank, refused to accept any further monies from plaintiff around 2006 at the time of the charge-off. This process allowed Capital One Bank to claim any debts that would have been owed them by plaintiff as a loss on their federal income taxes and also allowed certain tax credit in their favor. After the debt generated by and through the credit card was charged off by Capital One Bank

and they refused to accept cash payments towards said debt, the issue of a debt between defendants [Capital One Bank] and this plaintiff inadvertently became a moot point and nonexistent. On or around November 2006, Capital One Bank, by and through Frederick J Hanna & Associates, P.C., initiated a civil action in the state court of Cobb county Georgia concerning a balance claimed to be owed to Capital One Bank for the credit card that they had previously refused to accept any payments for. Frederick J Hanna & Associates, P.C. initiated the action on the behalf of Capital One Bank claiming a delinquent amount due in spite of the fact that Capital One Bank had previously refused payments from this plaintiff and had already charged off the amount claimed to be owed. Frederick J Hanna & Associates, P.C. acted as a party to the action that was initiated in the state court of Cobb county Georgia as indicated by documents attached hereto. See plaintiffs' exhibit number 1 attached hereto. Defendants Frederick J Hanna & Associates, P.C. indicated by court filings that they were counsel of record for defendants Capital One Bank, but on the contrary, they are a debt collection service designed to purchase or to have assigned to them, delinquent and or charged off debts at a low cost and to attempt to force the previously charged off clients to make payments directly to them as a means of generating income for their debt collection firm. Their actions violate ABA Rule 3.7 in that acting as a collection agency, they were actually parties to the action and inadvertently signed off as counsel for Capital One Bank. This entire scenario set the stage for both defendants named in this instant action to violate plaintiffs' rights pursuant to the Fair Debt Collections Practice Act and the Fair Credit Reporting Act and ultimately gave rise to this instant action. The defendants have used the courts as a shield

to commit fraud and to violate the United States federal income tax codes on a regular basis.

ALLEGATIONS

3. The defendants violated plaintiffs' rights guaranteed her by and through 15 U.S.C. § 1681 the Fair Credit Reporting Act. Defendants Capital One Bank reported a negative and or delinquent debt amount on plaintiffs' credit report, after charging-off the debt and refusing to accept payments of any type from plaintiff. Further, after charging the debt off and benefiting fiscally, Capital One Bank re-initiated the same debt and began reporting it as a new debt and for collection purposes, either sold or assigned the debt to Frederick J Hanna & Associates, P.C. as indicated by the attached document.

4. The defendants violated plaintiffs' rights guaranteed her by and through 15 U.S.C. §§ 1692 – 1692p the Fair Debt Collection Practices Act. Defendants Capital One Bank refused to accept payment for a previous debt incurred from a credit card issued to plaintiff. This was solely for the purposes of obtaining certain tax benefits by categorizing plaintiffs' debt as charged off. Defendants were allowed to write the reported amount off as a charged-off debt on their business income taxes. Defendants [Capital One Bank] then sold or assigned the exact same debt amount to defendant Frederick J Hanna & Associates, P.C. for the purposes of violating plaintiffs rights and violating the U.S. income tax codes by profiting from a declared loss.

DAMAGES

5. Plaintiff have suffered damages resulting from the intentional actions of the defendants as described within this civil complaint. Plaintiff has suffered mental stress

and mental strain resulting from the actions of the defendants. Plaintiff has suffered from the incorrect reporting of her credit files and has suffered from the illegal tactics used against her as described within this complaint.

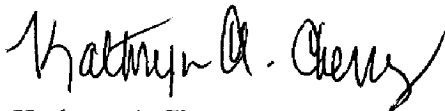
JURY DEMAND

6. Plaintiff demands a trial by jury for all issues of law raised within her complaint.

RELIEF

7. Plaintiff seeks relief from the named defendants in this action pursuant to the statutes cited and seeks further relief in the form of punitive damages to be awarded by a jury for the violations of law raised within this complaint. Plaintiff seeks monetary relief from the named defendants for mental anguish, mental stress and strain and public humiliation in the following amounts: Capital One Bank to pay \$500,000.00 for damages, Frederick J Hanna & Associates, P.C. to pay \$500,000.00 for damages and an amount for punitive damages to be determined by a jury.

Submitted this 23 October 2009

A handwritten signature in black ink, appearing to read 'Kathryn A. Cherry', with a stylized flourish at the end.

Kathryn A Cherry
Plaintiff